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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,141	02/12/2007	Shinichi Wada	L5085.07106	5651

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EXAMINER
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CHEN, TIANJIE

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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03/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,141	<b>Applicant(s)</b> WADA ET AL.	
	<b>Examiner</b> Tianjie Chen	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Non-Final Rejection***

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

2. The disclosure is objected to because of the following informalities:
  - In Specification, p. 8, lines 1 and 12; “400” should be changed to --200--.
  - In Specification, p. 8, line2; “said” should be changed to --side--.

Appropriate correction is required.

***Drawings***

3. Figures 6 and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having

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ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ota (JP 2002-352498A) and Applicant Admitted Prior Art (AAPA) in view of Kenwood JP 4-58834 U).

Claim 1, Ota shows a disk apparatus in Figs. 1-3, which is similar with Applicant's Figs. 1-3, including a chassis outer sheath having a base body and a lid, in which a front surface of the chassis outer sheath is formed with a disk inserting opening into which a disk is directly inserted, the base body is provided with a traverse, a spindle motor having a rotation stage on which the disk is placed is held by the traverse, one side of the traverse is inclined and moved by vertically moving means. Ota's reference is cited in Applicant's disclosure and Applicant's further points out that such conventional device, as AAPA, the rotation stage is brought close to the lid as shown in Fig. 6, the disk placed on the rotation stage is pushed toward the rotation stage to mount the disk on the rotation stage by the convex portion provided on the side of the lid such that the convex portion projects toward the rotation stage at a position opposed to the rotation stage.

AAPA's Fig. 6 shows that the clamp cannot contact the disk properly, i.e. it cannot hold the disk firmly; i.e. AAPA fails to show that when a tip end of the convex portion is inclined such that the tip end of the convex portion becomes substantially in parallel to a surface of the rotation stage when the traverse approaches the lid.

Kenwood shows a clamp, which can be adjusted to conform the surface of the disk; it can hold the disk evenly. One of ordinary skill in the art would have been motivated to replace the clasper in AAPA's device with Kenwood's clasper for better holding the disk.

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In such constructed device, when a tip end of the convex portion is inclined such that the tip end of the convex portion becomes substantially in parallel to a surface of the rotation stage when the traverse approaches the lid.

Claim 5, the above constructed device is a disk apparatus including a spindle motor having a rotation stage on which a disk is placed, a hub which is disposed on a center of the rotation stage and which holds the disk, a traverse whose one end holds the spindle motor, vertically moving means which vertically moves the one end of the traverse around the other end of the traverse as a rotation support shaft/and an opening disposed at a location opposed to the rotation stage, wherein a convex portion projecting toward the rotation stage is provided around the opening, a convex portion located on the other end of the traverse is higher than a convex portion located on the one end of the traverse (Fig.1 in Kenwood).

Claim 2, in above constructed device, the convex portion is

A "product by process" claim is directed to the product per se, no matter how actually made, see *In re Hirao*, 190 USPQ 15 at 17 (footnote 3 CCPC, 5/27/76); *In re Brown*, 173 USPQ 685 (CCPA 5/18/72); *In re Luck*, 177 USPQ 523 (CCPA, 4/26/73); *In re Fessmann*, 180 USPQ 324 (CCPA, 1/10/74); *In re Thorpe*, 227 USPQ 964 (CAFC, 11/21/85). In this claim the limitation "by drawing" is a process related limitation, which does not earn any weight in determining patentability.

Claim 3, in such constructed device, the tip end of the convex portion on the side of the disk insertion opening is inclined toward the rotation stage.

Claims 4 and 7, Similar to Applicant's drawing 1, Ota shows in Fig. 1 a main slider and a sub-slider are provided as the vertically moving means, the main slider is disposed on the side of the spindle motor in such a direction that one end of the main

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slider comes on the side of a front surface of the chassis outer sheath and the other end comes on the side of a rear surface of the chassis outer sheath, the sub-slider is disposed on the side of the rear surface of the spindle motor in a direction perpendicular to the main slider.

Claim 6, in such constructed device, the tip end of the convex portion on the side of the disk insertion opening is inclined toward the rotation stage.

### ***Conclusion***

5. The prior art made of record in PTO-892 Form and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tianjie Chen/  
Primary Examiner, Art Unit 2627